

HOUSE BILL 1009

By Stewart

AN ACT to amend Tennessee Code Annotated, Section 67-1-1802, relative to procedures for challenging denied refund claims.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-1-1802, is amended by deleting subsection (c) in its entirety and by substituting instead the following:

(c)

(1) A suit challenging the denial or deemed denial of a claim for refund shall be filed in the appropriate chancery court of this state within one (1) year from the date that the claim for refund was filed with the commissioner; provided, that a taxpayer and the commissioner or the commissioner's delegate may enter into an agreement in writing within one (1) year from the date the taxpayer filed a claim for refund in which the taxpayer and the commissioner or the commissioner's delegate consent to suit being filed in chancery court beyond the one-year period provided in this subdivision (c)(1) and that, in the case of an agreement, the taxpayer may file suit in the appropriate chancery court challenging the denial or deemed denial of a claim for refund within the agreed upon period.

(2) In a suit challenging the denial or deemed denial of a claim for refund, the chancery court shall conduct a de novo trial of the suit; provided, that the court shall have no jurisdiction in cases in which the issue is the existence, continued existence, or amount of a debt set off against a tax refund, or in which the issue is the validity of an assessment made pursuant to § 67-1-1808(i). The

remedies established in § 67-1-1808 are a taxpayer's sole and exclusive remedies to challenge the existence, continued existence, or amount of a debt set off against a tax refund, or to challenge the validity of an assessment made pursuant to § 67-1-1808(i).

(3) The commissioner, by written notice promptly delivered to the taxpayer, may waive the requirement that the taxpayer file a claim for refund, in which case the taxpayer may file suit in the appropriate chancery court of this state for a refund within one (1) year following the date of such waiver by the commissioner, and such suit shall proceed in all respects, including for the purpose of determining the date from which interest thereon should be calculated, as if proper and timely claim for refund had been filed by the taxpayer, and either denied or not acted upon by the commissioner within the period specified herein.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.